

eminent domain, omitted to provide compensation to the owner of the property taken for public uses ; and such provision was made by the 15th section of the act of 1824, ch. 79, passed to confirm an act of the legislature of Virginia, incorporating the Chesapeake and Ohio Canal Company. The 15th and 19th sections of the charter of this company construed, The taking of acceptances for a pre-existing debt by a creditor, cannot have the effect of extinguishing the debt.

If the inquisition of the jury, when returned to and affirmed by the court, under the act of 1824, constitutes a debt at all, it is a debt of record, and of equal grade with a judgment, and, therefore, not merged by it.

When the company refuses or neglects to pay for the land condemned for their use, the owner has a right to call upon this court to protect, by injunction, his property from injury, until the money is paid.

The complainants were held to be entitled to interest on their claim, from the day of the affirmation of the inquisition of the jury by the court.

[On the 4th June, 1838, a previous inquisition having been set aside by Alleghany County Court, a new jury met and proceeded to condemn the lands of the complainants, for the use of the Chesapeake and Ohio Canal Company, one of the defendants in this cause. By their inquisition, which was affirmed by the court of said county, on the 8th of October following, the sum of \$13,256 was awarded to the complainants, as damages for the lands so condemned. Shortly after the ratification of this inquisition, the company commenced operations upon the condemned lands, making some excavations upon the upper and lower ends of the line, and continued working upon them at intervals, until the years 1840 and 1841, when their operations were temporarily suspended. On the 1st April 1840, the money not being paid, the company accepted the drafts of William Harness, acting for himself, and under a letter of attorney from the other parties, payable to his order, for the amount of the inquisition, with interest from the day of its ratification. These drafts matured on the 1st December, 1840, and having been dishonored, suit was brought upon them by the payee in Alleghany County Court, and judgment was recovered, in his name, at October term, 1842. On the 2d June, 1843, a *fieri facias* was issued upon this judgment, and levied by the sheriff upon the property condemned, and upon another piece of land, supposed to belong to the company, but which was, in fact,